

Claims 1-22 are pending in this application. Claims 18-22 are currently withdrawn.

I. Rejections Relying Upon Prior Art

Claims 1, 2, 4, 6-10 and 12-14 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 6,080,519 ("Ishiyama").

In addition, claims 3, 5, 11 and 15-17 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Ishiyama in view of U.S. Patent No. 5,976,750 ("Hagi").

These rejections are respectfully traversed.

Claim 1 recites a resin powder for a dermatologic composition, the resin powder comprising resin particles consisting essentially of a resin having an average volume particle size of 2.0 to 20.0 μm , a shape factor SF1 of 110 to 140 and an average volume particle size distribution GSDv of 1.3 or less.

Ishiyama teaches toner compositions comprising a coloring agent and a binder resin having a volume average particle size of 2 to 9 micrometers, a shape factor SF1 of 110 to 140, and an average volume particle size distribution GSDv of 1.30 or less. See Ishiyama, column 3, line 66 to column 4, line 12.

In contrast to the resin powder recited in claim 1, Ishiyama does not disclose a resin powder comprising resin particles consisting essentially of a resin. Rather, Ishiyama discloses a method of producing the above toner resin particles by mixing a resin fine particle dispersion, a coloring agent dispersion and a releasing agent dispersion, and aggregating the mixture to form toner particles. The aggregated particles are then heated in order to fuse and unite the particles. See Ishiyama, column 8, lines 16-29.

The aggregated toner particles of Ishiyama include the coloring agent therein. Ishiyama teaches that the coloring agent dispersion and the releasing agent dispersion are aggregated with the resin particle dispersion in order to form resin particles, and thus that the

coloring agent is essential to the toner composition of Ishiyama. As a result, Ishiyama does not teach or suggest resin particles consisting essentially of a resin.

At the bottom of page 3 of the Office Action, the Patent Office alleges that Ishiyama describes the preparation of resin fine particles that do not include colorant therein, which thus allegedly describes the resin particles consisting essentially of a resin as recited in the present claims.

At column 13, line 60 to column 14, line 51, Ishiyama describes the preparation of resin fine particle dispersions that are to be used in the aggregation step for forming toner particles. While these resin fine particle dispersions do not include a colorant as noted by the Patent Office, these resin fine particle dispersions do not satisfy the required physical properties for the resin particles of claim 1, wherein the resin particles must have an average volume particle size of 2.0 to 20.0 μm , a shape factor SF1 of 110 to 140 and an average volume particle size distribution GSDv of 1.3 or less.

More in particular, in the example resin fine particle dispersions, the resin fine particles are indicated to have an average particle size of 160 nm (0.16 μm) or 60 nm (0.06 μm) (column 14, lines 21 and 48-49). Such particle sizes for the resin fine particles are well below the required volume average particle size range recited in present claim 1 for the resin particles of the claimed resin powder.

In Ishiyama, the resin fine particles described therein must have a very small size in order to permit the particles to be aggregated (grown) into the end toner particles having the size of 2 to 9 μm as described in Ishiyama. In Ishiyama, the resin fine particles are mixed with a coloring agent and a releasing agent, and then the smaller particles of the resin fine particle are aggregated together to form the larger particles of the toner particles that include the coloring agent therein. The aggregated particles are heated to fuse and unite the aggregated particles to obtain the end toner particle. See column 8, lines 16-29 of Ishiyama.

These resin fine particles are thus not the toner particle itself, but are instead a smaller starting particle that is grown into the end larger toner particles.

As such, Applicants submit that although these resin fine particles of Ishiyama consist essentially of resin binder, it is not correct to allege that the resin fine particles teach or suggest the resin particles consisting essentially of a resin with the physical properties, including particle size, recited in claim 1.

In the middle of page 3 of the Office Action, the Patent Office alleges that pigments described as useable with the present resin particles are similar to those useable in Ishiyama, and thus alleges that the colorant of Ishiyama is not a materially necessary component excluded by the present claim language. Applicants again disagree with the Patent Office's analysis.

Applicants point out that in the present application, pigments, if present, are applied to the resin particle surface. See the bottom of page 21 of the present specification. Thus, the resin particles themselves still consist essentially of the resin. In Ishiyama, on the other hand, the coloring pigments are physically incorporated into the toner particles to be an integral part thereof. The toner particles in Ishiyama thus do not consist essentially of resin, but instead further include coloring pigments as a necessary component thereof.

In view of the foregoing, it is clearly not correct for the Patent Office to conclude that merely because the present application may apply pigments similar to those incorporated into Ishiyama's toner particles, the colorant of Ishiyama is not a materially necessary component excluded by the "consisting essentially of" claim language. The pigments are used and incorporated differently, and the mere possible use of similar pigments in these different ways does not establish anything with respect to the presence of the colorant within the toner particles of Ishiyama affecting the basic and novel characteristics of the resin particles recited in the present claims.

Finally, at the top of page 3 of the Office Action, the Patent Office continues to allege that the "consisting essentially of" language does not distinguish over the toner particles of Ishiyama. The Patent Office alleges that the resins of Ishiyama and of the present claims are the same, and the presence or absence of a colorant in the resin does not affect this. However, the present claims are directed to a resin powder including resin particles consisting essentially of a resin. Thus, the Patent Office appears to incorrectly focus on the resin itself, and not on the resin particles that must consist essentially of the resin. Applicants have submitted evidence and information, summarized again below for the convenience of the Patent Office, confirming that the presence of colorant in the resin particles of the claimed resin powder does in fact affect the basic and novel characteristics of the resin particles and resin powder. The Patent Office has not addressed any of this evidence and information.

In claim 1, "consisting essentially of" should be construed to exclude any additional materials that affect the basic and novel characteristics of the resin particles of the claimed resin powder. First, the specification indicates that affinity to the skin, spreadability and smoothness are basic and novel characteristics associated with the resin particles and powder. As disclosed throughout the present specification, the resin powder for dermatologic composition is capable of attaining sufficient spreadability and skin adhesion upon application of a cosmetic composition or a skin cleansing composition to the skin. For example, see page 2, lines 25-27 to page 3, lines 1-2. The specification discloses that the resin particles affect these desired properties. See, for example, page 5, lines 7-23, page 6, lines 14-17, page 7, lines 11-25, page 8, lines 1-8, page 10, lines 10-13, Table 2 on pages 35 and 36 of the specification, etc. The powder of the present application exhibits excellent spreadability and skin adhesion as a result of the resin particles composition and properties, so that it is possible to add the powder to cosmetic compositions (see page 18, lines 20-23 of the present specification). Thus, the specification indicates spreadability and smoothness are

basic and novel characteristics of the resin particles and powder. The Patent Office's assertions to the contrary are incorrect.

Second, the Patent Office further asserts that there is no clear evidence that a toner colorant materially affects the basic and novel characteristics of the resin particles in Ishiyama. Thus, the Patent Office alleges that the present claims do not exclude the colorants of Ishiyama. This is also incorrect. In the Rule 132 Declaration filed on March 16, 2005, evidence was submitted that the presence of a colorant affects these basic and novel characteristics, including affinity to the skin, spreadability and smoothness. Specifically, the evidence showed that when resin particles containing colorants are produced, the colorants tend to aggregate and adhere to the surface of the resin particles. These precipitated colorants can become dislodged from the surface of the resin particles during processing, such as cosmetic production, due to the colorants and resins having different hardness values. The hardness and shape of the dislodged colorant adversely affects the affinity to the skin, spreadability and smoothness of the resin particles and of the finished product, as shown on page 5, paragraphs 2-4 of the Declaration. Affinity to the skin, spreadability and smoothness are plainly basic and novel characteristics required of resin particles of a resin powder for a dermatologic composition as claimed. Resin particles not having these properties would not be suitable in a dermatologic composition as claimed. As such, the previously filed Declaration provides evidence that the colorant as taught by Ishiyama is excluded by the recitation "consisting essentially of" as recited in claim 1.

For the foregoing reasons, Applicants respectfully submit that Ishiyama fails to anticipate any of the present claims. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Applicants further submit that Hagi remedies none of the deficiencies of Ishiyama detailed above. Hagi also teaches toner particles that include a colorant and a binder resin,

which has a volume average particle size of 3 to 7 micrometers and a shape factor SF1 of 100 to 130. See Hagi, Abstract; column 3, lines 9-25; and column 4, lines 6-12. Specifically, Hagi teaches incorporating colorants into binder resin during polymerization to form toner particles. See Hagi, column 7, line 53 to column 8, line 11.

Thus, Hagi also does not teach or suggest a resin powder comprising resin particles consisting essentially of a resin as recited in claim 1. Hagi, like Ishiyama, requires a colorant in the toner particles.

For the foregoing reasons, Applicants respectfully submit that Ishiyama and Hagi, alone or in combination, would not have led one of ordinary skill in the art to the present claims. Accordingly, reconsideration and withdrawal of this rejection are also respectfully requested.

II. Rejoinder

Applicants submit that upon allowance of claims 1-17, composition claims 18-22 should be rejoined with the application and similarly allowed.

III. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-22 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Date: March 15, 2007

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